

**Education Cabinet**

**Kentucky Board of Education**

**Department of Education**

**(New Administrative Regulation)**

**704 KAR 7:160. Use of Restraint and Seclusion in Public Schools**

RELATES TO: KRS 156.160 (1) (g); 158.444 (1)

STATUTORY AUTHORITY: KRS 156.160 (1) (g); KRS 156.070; KRS 158.444 (1)

NECESSITY, FUNCTION, AND CONFORMITY: 156.160 (1) (g) and KRS 158.444 (1) gives the Kentucky Board of Education the authority to promulgate administrative regulations related to medical inspection, physical and health education and recreation, and other regulations necessary or advisable for the physical welfare and safety of the public school children.

The first responsibility of Kentucky schools is to ensure that schools promote learning in a safe and healthy environment for all children, teachers and staff. The use of improper restraint and seclusion by districts directly affects the physical welfare of students and may result in physical harm or possible death of students. Because there is no evidence that restraint or seclusion is effective in reducing the occurrence of inappropriate behaviors, restraint or seclusion should never be used except in situations where a child's behavior poses imminent danger of serious physical harm to self or others. Restraint and seclusion should be avoided to the greatest extent possible without endangering the safety of students and staff. This administrative regulation

establishes the requirements for appropriate use of restraint and seclusion in districts and the notification and data reporting requirements for the use of restraint and seclusion in districts.

Section 1. Definitions. (1) “Aversive behavioral interventions” means a physical or sensory intervention program intended to modify behavior that the implementer knows would cause physical trauma, emotional trauma, or both, to a student even when the substance or stimulus appears to be pleasant or neutral to others and may include hitting, pinching, slapping, water spray, noxious fumes, extreme physical exercise, loud auditory stimuli, withholding of meals, or denial of reasonable access to toileting facilities.

(2) “Behavior intervention” means the implementation of strategies to address behavior that is dangerous, inappropriate, or otherwise impedes the learning of the students or others.

(3) “Behavioral Intervention Plan” means a comprehensive plan for managing inappropriate or dangerous behavior by changing or removing contextual factors, antecedents, and consequences that trigger, maintain, or escalate inappropriate or dangerous behavior, and for teaching alternative appropriate behaviors to replace the inappropriate or dangerous behaviors.

(4) “Chemical restraint” means the use of medication to control behavior or restrict a student’s freedom of movement that includes over-the-counter medications used for purposes not specified on the label but does not include medication prescribed by a licensed medical professional and supervised by qualified and trained individuals in accordance with professional standards.

(5) “Dangerous behavior” means behavior that presents an imminent danger of serious physical harm to self or others but does not include inappropriate behaviors such as disrespect, noncompliance, insubordination, or out of seat behaviors.

1 (6) “De-escalation” means the use of behavior management techniques intended to mitigate and  
2 defuse dangerous behavior of a student, that reduces the imminent danger of serious physical  
3 harm to self or others.

4 (7) “Emergency” means a sudden, urgent occurrence, usually unexpected but sometimes  
5 anticipated, that requires immediate action.

6 (8) “Functional Behavioral Assessment” means a process to analyze environmental factors such  
7 as any history of trauma, the combination of antecedent factors (factors that immediately precede  
8 behavior) and consequences (factors that immediately follow behavior) that are associated with  
9 the occurrence of inappropriate or dangerous behavior and includes the collection of information  
10 through direct observations, interviews and record reviews to identify the function of the  
11 dangerous behavior and guide the development of behavioral intervention plans.

12 (9) “Mechanical restraint” means the use of any device or equipment to restrict a student’s  
13 freedom of movement, but does not include devices implemented by trained school personnel, or  
14 utilized by a student that have been prescribed by an appropriate medical or related services  
15 professional that are used for the specific and approved purposes for which such devices were  
16 designed and that may include adaptive devices or mechanical supports used to achieve proper  
17 body position, balance, or alignment to allow greater freedom of mobility than would be possible  
18 without the use of such devices or mechanical supports; vehicle safety restraints when used as  
19 intended during the transport of a student in a moving vehicle; restraint for medical  
20 immobilization; or orthopedically prescribed devices that permit a student to participate in  
21 activities with risk of harm.

22 (10) “Parent” means a natural parent, a guardian, or an individual acting as a parent in the  
23 absence of a parent or a guardian.

(11) “Physical Restraint” means a personal restriction that immobilizes or reduces the ability of a student to move his or her torso, arms, legs, or head freely but does not include temporary touching or holding of the hand, wrist, arm, shoulder, or back for the purpose of encouraging a student to move voluntarily to a safe location.

(12) “Positive behavioral supports” means a school-wide systematic approach to embed evidence-based practices and data-driven decision-making to improve school climate and culture in order to achieve improved academic and social outcomes, to increase learning for all students, including those with the most complex and intensive behavior needs; and to encompass a range of systemic and individualized positive strategies to reinforce desired behaviors, to diminish reoccurrence of inappropriate or dangerous behaviors, and to teach appropriate behaviors to students.

(13) “Prone restraint” means the student is restrained in a face down position.

(14) “School personnel” means teachers, principals, administrators, counselors, social workers, psychologists, paraprofessionals, nurses, librarians, and other support staff who are employed in a school or who perform services in the school on a contractual basis but does not include school resource officers defined in KRS 158.441 (2).

(15) “Seclusion” means the involuntary confinement of a student alone in a room or area from which the student is prevented from leaving but does not include classroom timeouts, supervised in-school detentions, or out-of-school suspensions.

~~(16) “Serious bodily harm” means any bodily injury which involves a substantial risk of death; extreme physical pain; protracted and obvious disfigurement; or protracted loss or impairment of the function of a bodily member, organ, or mental faculty.~~

(16) “Student” means any person enrolled in a preschool, school level as defined in 704 KAR 5:240 Section 5, or other educational program offered by a local public school district.

(17) “Supine restraint” means a student is restrained in a face up position on his or her back.

(18) “Timeout” means a behavior management technique that is part of an approved program, involves the monitored separation of the student in a non-locked setting, and is implemented for the purpose of calming.

Section 2. (1) Local districts shall establish local policies and procedures that:

(a) Ensure school personnel are aware of and parents are notified how to access its policies and procedures regarding restraint and seclusion;

(b) Are designed to ensure the safety of all students, including students with the most complex and intensive behavioral needs, school personnel, and visitors;

(c) Require school personnel to be trained in accordance with the requirements outlined in Section 7 of this administrative regulation;

(d) Outline procedures to be followed during and after each incident involving the imposition of physical restraint or seclusion upon a student, including notice to parents, documentation of the event in the student information system, and **a process for the parent or emancipated youth to request** a debriefing session;

(e) Require notification, **within 24 hours,** of the Kentucky Department of Education and local law enforcement in the event of death, **substantial risk of death, extreme physical pain, protracted and obvious disfigurement or protracted loss or impairment of the function of a bodily member, organ, or mental faculty resulting from** ~~or serious bodily harm of a student~~ **in conjunction with** the use of physical restraint or seclusion;

(f) Outline a procedure by which parents may submit a complaint regarding the physical restraint or seclusion of their child, which requires the district and school to investigate the circumstances surrounding the restraint or seclusion, make written findings, and where appropriate, take corrective action; and

(g) Outline a procedure to regularly review data on restraint and seclusion usage and revise policies as needed.

(2) Local districts shall revise existing policies or develop policies consistent with this administrative regulation within ninety (90) calendar days of the effective date of this administrative regulation.

Section 3. (1) Physical restraint shall not be used:

(a) As punishment;

(b) As a means of coercion to force compliance or retaliation;

(c) As a substitute for appropriate educational or behavioral support;

(d) To prevent property damage in the absence of imminent danger of serious physical harm to self or others;

(e) As a routine school safety measure; or

(f) As a convenience for staff.

(2) School personnel are prohibited from imposing the following on any student at any time:

(a) Mechanical restraint;

(b) Chemical restraint;

(c) Aversive behavioral interventions that compromise health and safety;

(d) Physical restraint that is life-threatening; and

(e) Prone or supine restraint.

**~~(f) Physical restraint that is prohibited by a licensed medical professional.~~**

(3) Physical restraint may only be implemented if:

(a) The student's behavior poses an imminent danger of serious physical harm to self or others;

(b) The physical restraint does not interfere with the student's ability to communicate in the student's primary language or mode of communication;

(c) The student's face ~~student is monitored face-to-face~~ for the duration of the physical restraint;

(d) Less restrictive interventions have been ineffective in stopping the imminent danger of serious physical harm to self or others, except in the case of a clearly unavoidable emergency situation posing imminent danger of serious physical harm to self or others; and

(e) Assigned staff are appropriately trained to use physical restraint.

(4) When implementing a physical restraint, staff shall use only the amount of force reasonably believed to be necessary to protect the student or others from imminent danger of serious physical harm to self or others.

(5) The use of physical restraint shall end as soon as:

(a) The student's behavior no longer poses an imminent danger of serious physical harm to self or others; or

(b) A medical condition occurs putting the student at risk of harm.

(6) School personnel imposing physical restraint in accordance with this regulation shall:

(a) Be trained by an individual or individuals who have been ~~and~~ certified by a crisis intervention training program that meets the established criteria in Section 7 of this administrative regulation, except in the case of clearly unavoidable emergency circumstances

when trained school personnel are not immediately available due to the unforeseeable nature of the emergency circumstance; and

(b) Be trained in state regulations and school district policies and procedures regarding restraint and seclusion.

~~(7) The use of physical restraint as a planned intervention shall not be written into a student's Individual Education Program (IEP), Section 504 Plan, individual student safety plan, or any other planning document for an individual student.~~

(7) A functional behavioral assessment shall be conducted following the first incident of restraint, unless one has been previously conducted for the behavior at issue.

Section 4. (1) Seclusion shall not be used:

(a) As punishment;

(b) As a means of coercion to force compliance or retaliation;

(c) As a substitute for appropriate educational or behavioral support;

(d) To prevent property **damage** in the absence of imminent danger of serious physical harm to self or others;

(e) As a routine school safety measure;

(f) As a convenience for staff; or

(g) As a substitute for timeout.

(2) Seclusion may only be implemented when:

(a) The student's behavior poses an imminent danger of serious physical harm to self or others;

(b) The student is visually monitored for the duration of the seclusion;

(c) Less restrictive interventions have been ineffective in stopping the imminent danger of serious physical harm to self or others; and



(d) Assigned staff are appropriately trained to use seclusion.

(3) The use of seclusion shall end as soon as:

(a) The student's behavior no longer poses an imminent danger of serious physical harm to self or others; or

(b) A medical condition occurs putting the student at risk of harm.

(4) A setting used for seclusion shall:

(a) Be free of objects and fixtures with which a student could inflict physical harm to self or others;

(b) Provide school personnel a view of the student at all times;

(c) Provide adequate lighting and ventilation;

(d) Be reviewed by district administration to ensure programmatic implementation of guidelines and data related to its use;

(e) Have an unlocked and unobstructed door; and

(f) Have at least an annual fire and safety inspection.

Section 5. (1) All incidents of the use of restraint and seclusion shall be documented by a written record of each episode of seclusion or physical restraint and be maintained in the student's education record. Each incident record **shall be informed by an interview with the student**

**and** shall include:

(a) The student's name;

(b) A description of the incident and the student behavior that resulted in the restraint or seclusion;

(c) The date of the incident and staff members involved;

(d) The beginning and ending times of the incident;

- (e) A description of any events leading up to the use of restraint or seclusion including possible factors contributing to the dangerous behavior;
  - (f) A description of the student's behavior in restraint or seclusion;
  - (g) A description of techniques used in restraining or secluding the student and any other interactions between the student and staff during the use of restraint or seclusion;
  - (h) A description of any interventions used immediately prior to the implementation of restraint or seclusion;
  - (i) A description of any injuries whether to students, staff, or others;
  - (j) An explanation as to why this behavior posed an imminent danger of serious physical harm to self or others;
  - (k) The date the parent was notified;
  - (l) A description of the effectiveness of restraint or seclusion in de-escalating the situation; and
  - (m) A description of staff response to the dangerous behavior.
- (2) The parent of the student shall be notified of the restraint and seclusion verbally or through electronic communication, if available to the parent, **as soon as possible within 24 hours of on the same day as** the incident. If the parent cannot be reached **within 24 hours that day**, a written communication shall be sent **to the parent within 24 hours of the incident**.
- (3) The principal of the school shall be notified of the seclusion or physical restraint as soon as possible, but no later than the end of the school day on which it occurred.
- (4) The incident record as outlined in Section 5 (1) of this administrative regulation shall be completed within 24 hours following the incident of seclusion or physical restraint.
- (5) **If the parent or emancipated youth requests a debriefing session under Section 2 of this regulation, a debriefing session shall be held after the imposition of restraint and seclusion**

~~upon a student. After the imposition of restraint and seclusion upon a student, all school personnel who were in the proximity of the student immediately before and during the time of the incident, the parent, the student, if the parent requests or if the student is an emancipated minor or an adult, appropriate supervisory and administrative staff, that may include appropriate Admissions and Release Committee members, Section 504 team members, or response to intervention team members shall participate in the debriefing session.~~

(6) All school personnel who were in the proximity of the student immediately before and during the time of the incident, the parent, the student, if the parent requests or if the student is an emancipated youth, appropriate supervisory and administrative staff, that may include appropriate Admissions and Release Committee members, Section 504 team members, or response to intervention team members shall participate in the debriefing session.

~~(a) The debriefing session shall occur as soon as practicable, but not later than five (5) school days following the imposition of seclusion or physical restraint, unless delayed by written mutual agreement of the parent and the school.~~

(7) The debriefing session shall occur as soon as practicable, but not later than five (5) school days following the request of the parent or the emancipated youth, unless delayed by written mutual agreement of the parent or emancipated youth and the school.

~~(8) (b)~~ The debriefing session shall include:

~~(a) 1.~~ Identification of the events leading up to the seclusion or physical restraint;

~~(b) 2.~~ Consideration of relevant information in the student's records and information from teachers, parents, other school district professionals, and the student;

(c) ~~3.~~ Planning for the prevention and reduction of the need for seclusion or physical restraint, with consideration of the results of functional behavioral assessments, whether positive behavior plans were implemented with fidelity, recommended appropriate positive behavioral interventions, and supports to assist personnel responsible for implementing the student's IEP, or Section 504 plan, or response to intervention plan, if applicable; and

(d) ~~4.~~ For any student not identified as eligible for services under either Section 504 of the Rehabilitation Act or the Individuals with Disabilities Education Act, evidence of a referral under either law, or documentation of the basis for declining to refer the student.

(9) ~~(e)~~ All documentation utilized in the debriefing session shall become part of the students education record.

~~Section 6. (1) If serious bodily harm or death of a student occurs in conjunction with the use of physical restraint or seclusion, the school district shall send notice to notify local law enforcement and the Kentucky Department of Education, within twenty four (24) hours of the death or harm.~~

Section 6 ~~Section 7.~~ School personnel shall be trained to use an array of positive behavior interventions, strategies, and supports to increase appropriate student behaviors and decrease inappropriate or dangerous student behaviors.

(2) All school personnel, in local districts shall have annual basic training in responding to students in a behavioral crisis and shall receive communication from the district identifying core team staff in the school setting that have been trained to engage in physical restraint or seclusion procedures. The training may be delivered utilizing web-based applications.

The training shall include:

(a) Appropriate procedures for preventing the need for physical restraint and crisis intervention, and including positive behavior management strategies;

(b) Proper use of positive reinforcement;

(c) The continuum to use of alternative behavioral interventions;

(d) Crisis prevention; and

(e) De-escalation strategies of problematic behavior, including verbal de-escalation, and relationship building. ~~;~~ ~~and~~

**(b) Identification of staff in the school setting that have been trained to engage in physical restraint or seclusion procedures.**

(3) A core team of selected school personnel shall be designated to respond to emergency situations, including the physical restraint or seclusion of students. The core team shall receive yearly training in the following areas:

(a) Appropriate procedures for preventing the need for physical restraint or crisis intervention that shall include the de-escalation of problematic behavior, relationship building, and the use of alternatives to restraints;

(b) A description and identification of dangerous behaviors on the part of students that may indicate the need for physical restraint or crisis intervention and methods for evaluating the risk of harm in individual situations, in order to determine whether the use of physical restraint or crisis intervention is safe and warranted;

(c) Simulated experience of administering and receiving physical restraint and crisis intervention, and instruction regarding the effect(s) on the person restrained, including instruction on monitoring physical signs of distress and obtaining medical assistance;

(d) Instruction regarding documentation reporting requirements and investigation of injuries; and

(e) Demonstration by participants of proficiency in administering physical restraint and crisis intervention.

Section 8. (1) The following data shall be reported in the student information system related to incidents of restraint and seclusion:

**(a) Aggregate number of uses of physical restraint;**

**(b) Aggregate number of students placed in physical restraint;**

**(c) Aggregate number of uses of seclusion;**

**(d) Aggregate number of students placed in seclusion;**

**(e) Aggregate number of substantial risk of death, extreme physical pain, protracted and obvious disfigurement or protracted loss or impairment of the function of a bodily**

**member, organ, or mental faculty to students related to physical restraint and seclusion;**

**(f) Aggregate number of instances of substantial risk of death, extreme physical pain,**

**protracted and obvious disfigurement or protracted loss or impairment of the function of a**

**bodily member, organ, or mental faculty to staff related to physical restraint and seclusion;**

**and**

**(g) Aggregate number of instances in which a school resource officer is involved in the**

**restraint or seclusion of a student.**

~~**(a) A description of any events leading up to the use of restraint or seclusion;**~~

~~**(b) A description of the student's behavior in restraint or seclusion;**~~

~~**(c) A description of techniques used in restraining or secluding the student and any other interactions between the student and staff during the use of restraint or seclusion;**~~

~~**(d) A description of any interventions used immediately prior to the implementation of restraint or seclusion;**~~

~~(e) A description of any injuries whether to students, staff, or others;~~

~~(f) The date the parent was notified;~~

~~(g) The date the debriefing session held; and~~

~~(h) A description of any incidents in which a school resource officer is involved in the restraint or seclusion of a student.~~

~~Section 9. Incorporation by Reference. (1) The United States Department of Education “Restraint and Seclusion: Resource Document” May 15, 2012, is incorporated by reference.~~

~~(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Division of Learning Services, Department of Education, 18th Floor, Capital Plaza Tower, Frankfort, Monday through Friday, 8 a.m. through 4:30 p.m.~~